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ASSIGNMENT BOOKLET A

LGS 3040

Legal Studies 3040: Section 1 Assignment and Section 2 Assignment

FOR STUDENT USE ONLY

Date Assignment Submitted:

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Student File Number:

Course: _____

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Teacher: _____

Assignment

Grading: _____

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Student's Questions and Comments

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Teacher's Comments

Teacher

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- Are all the assignments completed? If not, explain why.
- Has your work been reread to ensure accuracy in spelling and details?
- Is the booklet cover filled out and the correct module label attached?

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LEGAL Studies

3040

Negligence

ASSIGNMENT BOOKLET A



Learning
Technologies
Branch

Alberta
EDUCATION

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Summary

	Total Possible Marks	Your Mark
Section 1 Assignment	29	
Section 2 Assignment	34	
	63	

Teacher's Comments

Legal Studies 3040
Negligence
Assignment Booklet A
Section 1 Assignment and Section 2 Assignment
Learning Technologies Branch
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This document is intended for	
Students	✓
Teachers	✓
Administrators	
Home Instructors	
General Public	
Other	



You may find the following Internet sites useful:

- Alberta Education, <http://www.education.gov.ab.ca>
- Learning Technologies Branch, <http://www.education.gov.ab.ca/ltb>
- Learning Resources Centre, <http://www.lrc.education.gov.ab.ca>

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ASSIGNMENT BOOKLET A
LEGAL STUDIES 3040: NEGLIGENCE
SECTION 1 ASSIGNMENT AND SECTION 2 ASSIGNMENT

This Assignment Booklet is worth 63 marks out of the total 100 marks for the assignments. The value of each assignment and each question is stated in the left margin.

Read all parts of your assignment carefully and record your answers in the appropriate places. If you have difficulty with an assignment, go back to your Student Module Booklet and review the appropriate lesson. Be sure to proofread your answers carefully before submitting your Assignment Booklet.

When responding to the questions in this booklet, you are encouraged to use a computer and word-processing application wherever reasonably possible. If you use a computer, be sure that you submit a printed copy that has been carefully proofread. Include your name, course name, and assignment question number on each page. Alternatively, you may be able to arrange with your teacher to submit your written assignments by e-mail.

29

Section 1 Assignment: What Is Negligence?

1. **Four** elements that must be proven to establish a case in negligence are

2

2. Can a person be guilty of negligence without meaning to be? Explain your answer.

3

②

3. Explain how negligence is different from a simple accident on someone's part that may have harmed another, but for which no legal blame is assigned.

③

4. Briefly define *res ipsa loquitur*, describe how it works, and explain how it's used.

When you've finished answering the preceding questions, return to page 24 of the LGS 3040 Student Module Booklet and continue working where you left off.

②

5. Briefly explain the duty of care owed by students to other students in their school. Give specific examples of expected behaviour to illustrate your answer.

②

6. Does the standard of care expected by the courts differ in the following situations? Explain why or why not.

- A wall falls down when you've hired a carpenter to build your house.
- A wall falls down when a neighbour is helping you build your house.

Examine the following cases and answer the questions that come after them.

7. *Windjack v. Rowein*

The defendant left an Edmonton bar at 1:00 a.m. The manager, suspecting that the defendant had stolen some objects from his table, became involved in a dispute with him outside the bar; other hotel employees tried to help. The defendant got into his vehicle and began driving in circles in the parking lot, endangering the employees' lives. When he stopped momentarily, the plaintiff, an employee who had been ordered by the manager to "go out and help the boys," reached into the vehicle in an attempt to get the car keys. At that moment the defendant drove off at a high speed, dragging and eventually running over the plaintiff. The plaintiff was seriously injured.

②

- a. What would the plaintiff's arguments have been?

②

- b. What would the defendant's arguments have been?

2

- c. If you were the judge, in whose favour would you have decided this case? Explain your reasons in terms of the elements needed to establish liability in negligence law.

8. *Wurban v. Lipak* (1982)

The plaintiff's husband was an experienced dragster racer (dragsters are a type of racing car). He was competing at a race when he sideswiped another dragster that had stalled in an earlier race and had been left on the edge of the track awaiting a tow truck. This vehicle was clearly visible—and wasn't obstructing the track. The driver died as a result of this accident and his family brought a legal action against three defendants:

- the manager of the track
- the race starter
- the driver of the stalled vehicle

The judge ruled against the plaintiff.

- a. Explain how in the eyes of the plaintiff **each** of the defendants **might** have been liable in a negligence case.

1

- (1) the manager of the track

①

(2) the race starter

①

(3) the driver of the stalled vehicle

b. If you were the lawyer representing the defendants, explain the arguments you would have used to defend **each** of them.

①

(1) the manager of the track

①

(2) the race starter

①

(3) the driver of the stalled vehicle

3

- c. Do you agree with the judge's decision? Explain your answer.

When you've finished answering the preceding questions, return to page 37 of the LGS 3040 Student Module Booklet and continue working where you left off.

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6

Section 2 Assignment: Damages, Defences, and Special Liabilities

1. Study the following two cases and then, in the appropriate boxes in the chart provided, indicate with a **Yes**, **No**, or **Perhaps** whether damages of each sort are likely to be awarded. For each answer, list the factors that make damages of that sort appropriate or not.

Case #1

The plaintiff was a 12-year-old girl who suffered permanent brain impairment due to head injuries sustained in a car accident. It seemed certain that because of this impairment the girl would never be able to find regular employment and would have to be looked after for the rest of her life. The defendant had been driving recklessly and showed no remorse for what he'd done to the plaintiff. In fact, he seemed pleased at all the attention he was getting—so pleased that the defendant was emotionally traumatized.

Case #2

The plaintiff was a 70-year-old retired man who was slightly hurt but psychologically traumatized in a car accident. He required some slight medical attention, but after the accident he was terrified of motor vehicles and could no longer ride in them. He was plagued by nightmares and had to undergo psychiatric treatment. The defendant, who was judged to be only 50 percent responsible for the accident, was very concerned by the plaintiff's condition and distraught over the results of her negligent driving.

	Case #1	Case #2
General Damages— Monetary Losses		
General Damages— Non-Monetary Losses		
Special Damages		
Aggravated Damages		
Punitive Damages		
Nominal Damages		

When you've finished answering the preceding questions, return to page 44 of the LGS 3040 Student Module Booklet and continue working where you left off.

- ② 2. Cole accepted a lift with Dalia, knowing that Dalia's car had been declared mechanically unfit to drive. An accident occurred due to a mechanical failure, and Cole injured both of his legs. At the trial, Dalia used the defence of voluntary assumption of risk. Would this defence likely succeed? Explain why or why not.

When you've finished answering the preceding question, return to page 51 of the LGS 3040 Student Module Booklet and continue working where you left off.

- ② 3. Mr. Schultz was advised by his doctor to have an operation. His doctor conscientiously informed Mr. Schultz of all the risks she knew about, but unknown to the doctor there was another risk which, though very unlikely, could lead to serious complications. Unfortunately, this unlikely situation developed in Mr. Schultz's case, and he lost about 75 percent of the use of his left arm.

Would the doctor be held liable? Explain why or why not.

4. Read the following cases and answer the questions that follow them.

a. *Choppin v. Caouette* (1982)

The parties to this case had neighbouring cottages at a lake. They had been friends for years and were familiar with each other's properties. One day the plaintiff paid a visit to the defendant but, finding no one home, turned and stepped off the porch at a spot where a stair had always been. For some reason the defendant had removed the stair, with the result that the plaintiff fell about 18 inches, injuring his leg in the process. The court determined that the plaintiff and the defendant were each 50 percent liable.

Briefly explain how each of the following concepts or terms are illustrated in this case:

②

(1) contributory negligence

②

(2) occupiers' liability

②

(3) licensee

②

(4) specific damages

b. *Zacharuk v. Kitlarchuk and Sawiak* (1979)

The three parties to this suit were moving machinery with a tractor fitted with a hydraulic ram. The plaintiff, a 17-year-old boy, had been asked to help by Kitlarchuk, who owned the property. Kitlarchuk was told of the boy's lack of experience and he assured the boy's father that he wouldn't be doing anything dangerous. However, Kitlarchuk asked the plaintiff, Zacharuk, to hold the ram and help guide it into its fitting on a machine, and in the process his fingers were cut off. The plaintiff was being careful at the time, but his inexperience resulted in the injury.

②

- (1) If the defendants use the defence of contributory negligence, will it likely succeed? Explain why or why not.

②

- (2) If the defendants use the defence of voluntary assumption of risk, will it likely succeed? Explain why or why not?

- ③ (3) If the defendants are found liable, what types of damages will the plaintiff likely be awarded? Name the types of damages and explain why they'd be appropriate.

- ② c. *Bliss v. Heimbecker and Barker* (1982)

An employee of the defendant burned off some grass on the defendant's property as part of his duties; but the fire escaped onto the plaintiff's land and damaged the house, driveway, and other buildings.

Since the defendant didn't actually light this fire, would the courts likely find her liable? Explain why or why not.

d. *Meier v. Qualico Developments* (1982)

The plaintiff, along with many other people in the area, was in the habit of using a vacant piece of land for recreational purposes—which was owned by the defendant. The defendant was aware of this and hadn't tried to stop it. When the defendant began to prepare the land for development, workers brought in heavy equipment and moved a good deal of earth, digging holes and levelling hills. However, no attempt was made to notify people who used the land recreationally; there were no signs, fences, or any other warnings posted when the workers weren't present. The plaintiff went onto the land on his motorcycle one evening after dark and fell into a large excavation, badly injuring himself. The court decided that the defendant was 75 percent liable and the plaintiff 25 percent liable.

①

(1) Was the plaintiff an invitee, a licensee, or a trespasser? Explain your answer.

②

(2) What would the arguments for the defendant likely be?

②

(3) What would the arguments for the plaintiff likely be?

②

(4) Why was the liability split 75/25?

When you've finished answering the preceding questions, submit this Assignment Booklet for assessment. Then return to page 66 of the LGS 3040 Student Module Booklet and continue working where you left off.

